**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN,
JAIPUR BENCH, JAIPUR.**

S. B. CIVIL MISC. APPEAL NO. 1316/2006

**HARI GOSWAMI & ANR.
v
BHAWANI SHANKAR & OTHERS**

DATE OF JUDGMENT: 21st MARCH, 2007.

Hon'ble Mr. Justice R. S. Chauhan

**Mr. Praveen Jain for the appellants.
Mr. Virendra Agarwal with
Mr. Rohan Jain for the respondents.**

By Court:

This appeal arises out of award dated 10.1.06 passed by the Motor Accident Claims Tribunal, Tonk, whereby the learned Tribunal has awarded a compensation of Rs. 2,84,800/-. However, the said compensation has been directed to be paid to respondent No.4 – Smt. Nandu Devi, the wife of appellant No.1 and mother of appellant No.2.

The brief facts of the case are that the son of appellant No.1 and respondent No.4, Ramesh Chand was employed as a 'Khalasi' on a truck, bearing Registration No. HR-55-8038. On 14.10.02 the said truck was parked near Anantpura Petrol Pump. Their son had gotten down from the truck and was checking the air pressure on the rear wheel of the truck. At that time another truck,

bearing Registration No. RJ- 20- G-2108 , being driven in a rash and negligent manner, came and struck Ramesh Chand, who died on the spot itself. Immediately, an FIR was lodged with the police. Since the entire family depended on Ramesh Chand for the financial support, the father, the mother, the younger sister and the grand parents filed a claim petition before the learned Tribunal. In order to support their case, the claimants examined three witnesses and submitted eleven documents. The respondents neither examined any witness, nor submitted any document. After hearing both the parties the learned Tribunal vide award dated 10.1.06 directed that compensation of Rs. 2,84,800/- should be paid. However, it directed that the said amount should be paid to only respondent No.4, the mother of the deceased. For, according to the learned Tribunal, the mother is a class one heir under the Hindu Succession Act. Therefore, she would have preference over the other legal heirs. Since the appellant No.1, the father and appellant No.2, the younger sister of the deceased have been deprived of the said claim amount, they have filed the present appeal before this court.

Mr. Praveen Jain, learned counsel for the appellant, has argued that the death of a son is a blow to both the parents and not just to the mother. Moreover, the entire family was financially dependent on the deceased. Therefore, his death has caused a financial crises for entire family and not just for the mother. Thirdly,

that while awarding a compensation, the provisions of Hindu Succession Act cannot be applied as the purpose of the compensation is to mitigate the loss suffered by the family. Under the beneficial piece of legislation - the Motor Vehicle Act - an attempt is made to lessen the financial, the emotional, the psychological loss suffered by the family at the sudden demise of the sole bread earner. Therefore, the learned Tribunal has erred in granting the entire compensation amount only to the mother, while ignoring the interest of the father and the younger sister.

On the other hand, Mr. Rohan Jain, learned counsel for the respondent No.4 has strenuously argued that the appellant and the respondent No.4 have been living separately for over a decade. It was the mother, who was more dependant on the deceased, than the father. Therefore, the learned Tribunal has rightly granted the compensation amount in favour of respondent No. 4.

We have heard both the learned counsels and have perused the impugned order.

The sudden departure of a family member is a loss suffered by the entire family and not by any particular individual. The Motor Vehicle Act, 1988 (henceforth to be referred to as 'the Act', for short) tries to lessen the burden and agony suffered by the family and to compensate for the financial loss suffered by the family as a

whole. Therefore, the provisions of the Act do not permit the application of the Hindu Succession Act. Hence the approach of the learned Tribunal was misplaced. After all, it is not only the mother, but equally the father and the younger sister who have suffered a tragedy. Hence, this Court has no other option but to modify the award dated 10.1.06 and direct that the amount of compensation of Rs. 2,84,800/- shall be equally divided amongst the five claimants. The said amount shall be paid to the claimants @ 6% from the date of filing of the claim petition till the date of the receipt of the amount. The learned Tribunal is directed to implement this judgment within a period of two months from the date of receipt of the certified copy of this order. With these observations, this appeal is allowed.

(R.S. CHAUHAN) J.

MRG.